

**LOCAL RULES OF PRACTICE
FOR THE CIRCUIT AND SUPERIOR COURTS
OF BLACKFORD COUNTY, INDIANA**

LR05-CROO-1 JOINT LOCAL RULE 1 – ASSIGNMENT OF CRIMINAL CASES

All criminal cases wherein the most serious charge is either a Class “C” Felony, a Class “B” Felony, a Class “A” Felony, or a Murder Felony shall be assigned to the Blackford Circuit Court. All Class “D” Felony Nonsupport cases shall be assigned to the Blackford Circuit Court. All Child Molesting cases shall be assigned to the Blackford Circuit Court. All other criminal cases, not specifically assigned to the Blackford Circuit Court herein, wherein the most serious charge is a Class “D” Felony including Misdemeanors shall be assigned to the Blackford Superior Court.

LR05-CR00-2 JOINT LOCAL RULE 2 – REILING AND SUBSEQUENT FILINGS

When the State of Indiana dismisses a criminal case and chooses to re-file that case, the case shall be assigned to the Court from which the dismissal was taken unless additional charges were filed where the most serious offense would be at a minimum a Class “C” Felony, then it may only be filed in the Blackford Circuit Court.

In the event a criminal case is filed in the Blackford Superior Court and an additional charge or charges are filed that would constitute a Class “C” Felony, a Class “B” Felony, a Class “A” Felony, or a Murder Felony, the case shall be reassigned to the Blackford Circuit Court.

LR05-CR12-3 JOINT LOCAL RULE 3 – JUDGE DISQUALIFIES

In the event the Honorable Bruce D. Bade, Judge of Blackford Circuit Court, or the Honorable John W. Forcum, Judge of Blackford Superior Court, disqualifies on the Court’s motion pursuant to the Rules of Judicial Conduct or grants a Motion for Change of Judge pursuant to Criminal Rule 12, the case will be transferred, or reassigned to the other Blackford County Judge, or the other Blackford County Judge, or the other Blackford County Judge shall be appointed Special Judge. Cases will be reassigned to out of county Judges pursuant to Local Rule 4 herein when both Blackford County Judges have disqualified.

LR05-CR12-4 JOINT LOCAL RULE 4 – REASSIGNMENT

The Following individuals have agreed to serve in the event it becomes necessary to reassign a felony or misdemeanor case in the Blackford Circuit Court or the Blackford Superior Court: Honorable Steven R. Caldemeyer, Judge of the Delaware Circuit Court #1; Honorable Robert L. Barnet, Jr., Delaware Circuit Court #2; Honorable Richard A. Dailey, Delaware Circuit Court #3; and Honorable Tom D. Diller, Jay Circuit Court.

In the event it becomes necessary to reassign a felony or misdemeanor case, the Judges will be reassigned in consecutive order to the above-noted Judges.

LR05-CR13-5 JOINT LOCAL RULE 5 – APPOINTMENT OF SPECIAL JUDGE

In the event no Judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge. In the event the Judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, this presiding Judge may request the Indiana Supreme Court for such appointment.

LR05-CR00-6 JOINT LOCAL RULE 6 – EFFECTIVE DATE

Local Rules 1 through 6 became effective July 1, 1995. The amendment of Joint Local Rule 3 herein shall become effective immediately. (April 5, 2001)

LR05-TR79-7 JOINT LOCAL RULE 7 - SPECIAL JUDGES CIVIL

The following local rule regarding selection of special judges where a special judge does not accept a civil case under Trial Rule 79 (D), (E), or (F), is now adopted by the undersigned judges of the Blackford County Circuit Court and the Blackford County Superior Court in conjunction with the other Courts of Administrative District 6 as established by Administrative Rule 3 (A) (6), and submitted for approval to the Indiana Supreme Court.

To make the most effective use of judicial resources by using close proximity of the judges, Administrative District 6 shall be divided into three sub districts, the judges in each sub district constituting the panel for assignment in the event a special judge fails to accept a civil case under Trial Rule 79 (D), (E), or (F), except that the following juvenile judges of the whole district shall constitute the panel for assignment in juvenile cases: Honorable Bruce C. Bade, Honorable Robert L. Barnet, Jr., Honorable Jan L. Chalfant, Honorable Steven R. Caldemeyer, Honorable Jan L. Chalfant, Honorable Richard A. Dailey, Honorable Brian D. Hutchison, Honorable David W. Whitton, Honorable Michael D. Peyton, and the Honorable Randall L. Johnson.

The sub districts are Grant County, Madison and Henry Counties, Delaware, Jay, Randolph, and Blackford Counties.

In submitting panels under Trial Rule 79 (F), judges in Blackford County shall name only regular or senior judges from Administrative District 6.

Any assignment required pursuant to Trial Rule (H), shall be made by the Delaware County Clerk on a rotating basis in consecutive order from the following individuals: Honorable Robert L. Barnet, Jr., Honorable Steven R. Caldemeyer, Honorable Jan L. Chalfant, Honorable Richard A. Dailey, Honorable Brian D. Hutchison, Honorable James J. Jordan, Honorable Joel D. Roberts, Honorable Wayne J. Lennington, Honorable Peter D. Haviza, Honorable Bruce C. Bade, and Honorable John W. Forcum.

The list of regular judges in the sub district of Delaware County, Jay County, Randolph County, and Blackford County may be supplemented by senior judges of the whole district.

In no event shall an individual be chosen whose name was placed on the panel submitted to the litigants under Trial Rule 79 (f).

In those cases where a judge has accepted an out-of-county special judge appointment under Trial Rule 79 (D), (E), (F), or (K), and the case has not been transferred to such judge's Court under Trial Rule 79 (M), such judge shall notify the Delaware County Clerk, and such Clerk shall exempt such judge from assignment for a case under Trial Rule 79 (H).

When no judge from the administrative district is eligible to serve a special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the judge shall cause the case to be certified to the Indiana Supreme Court for appointment of a special judge.

When the Delaware County Clerk is involved in the selection process and no judge is eligible to serve as special judge in a case, or special circumstances warrant selection of a special judge by the Indiana Supreme Court, the Delaware County Clerk shall certify this fact to the Indiana Supreme Court for the appointment of a special judge pursuant to Trial Rule 79 (K).

LR05-TR79-8 LOCAL RULE 8 – JUDGE DISQUALIFIES

The judges of the Blackford Circuit Court and the Blackford Superior Court agree and adopt this local rule concerning transfer or reassignment of cases which require a change of judge in certain circumstances. If a judge of Blackford Circuit Court or the Blackford Superior Court disqualifies or recuses under Trial Rule 79 (C) the case may be assigned to the other judge as a special judge or transferred to the other Court as agreed upon by both judges. If a judge does not accept selection as special judge or transfer, the case will be reassigned to a different special judge pursuant to Joint Local Rule Number 7.

LR05-AR15-9 – LOCAL RULE 9 – REPORTERS

The undersigned courts comprise all of the courts or record of Blackford County, Indiana, and hereby adopt the following local rule by which Court Reporter services shall be governed.

Section One: Definitions. The following definitions shall apply under this local rule:

- (1) A *Court Reporter* is a person who is specifically designated by a Court to perform the official Court reporting services for the Court including preparing a transcript of the record.
- (2) *Equipment* means all physical items owned by the Court or other governmental entity and used by a Court reporter in performing Court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing data.
- (3) *Work space* means that portion of the Court's facilities dedicated to each Court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rules of Appellate Procedure 7.2.
- (5) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) *Regular hours worked* means those hours which the Court is regularly scheduled to work during any given work week. Depending on the particular Court, these hours may vary from Court to Court within the county but remain the same for each work week.
- (7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- (8) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
- (9) *Work Week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Thursday, Friday through Thursday.
- (10) *Court* means the particular Court for which the Court reporter performs services. Court may also mean all of the courts in Blackford County.
- (11) *County indigent transcripts* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a Court.

- (12) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a Court.
- (13) *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

SECTION TWO: Salaries, Per Page Fees and Private Practice

- (1) The Court reporter shall be paid an hourly wage for time spent working under the control, direction and direct supervision of the Court during all regular work hours and gap hours. Overtime hours worked shall be accrued as compensatory time off at the rate of one and one-half times per hours worked with a maximum number of hour accrued to be forty (40). All overtime hours worked after the Court Reporter has accrued forty (40) hours shall be paid at the rate of one and one-half times the hourly wage.
- (2) The Court Reporter shall charge a per page fee of three dollars and fifty cents \$(3.50) for indigent county transcripts, state indigent transcripts, and private practice transcripts and that a claim for all county indigent transcripts (not prepared during regular work hours) shall be submitted to the Blackford County Auditor for payment.
- (3) All Court Reporters are required to report on an annual basis to the Indiana Supreme Court Division of State Court Administration on forms prescribed by the Division.
- (4) If the Court Reporter elects to engage in the private practice of recording a deposition and/or preparation of a deposition or private practice transcripts and the Court Reporters desires to utilize the Court's equipment, work space and supplies, and the Court agrees to the use of Court's equipment for such purpose, the Court Reporter agrees to the following:
 - (a) Record and transcribe the deposition on the Court Reporter's own time and keep a record of such employee time sheets.
 - (b) Reimburse the Court at the rate of fifty cents (\$0.50) per page for use of equipment, work space, and supplies.
 - (1) The Court Reporter shall submit a claim to the Blackford County Auditor for payment of an indigent deposition (not prepared during the regular work hours); however, said claim shall include the deduction for use of equipment, work space, and supplies.
 - (2) The Court Reporter shall remit payment to the Blackford County Auditor annually, by December 15th, for use of equipment, work space, and supplies in conjunction with a non-indigent deposition.

- (5) That each Court Reporter shall have the option of electing to procure the services of a certified Court Reporter or Deputy Court Reporter to prepare a private practice transcript should she not have available time to complete the preparation of said transcript. The certified Court Reporter or Deputy Court Reporter shall abide by the rules as set forth herein.

LR05-AR-103 - LOCAL RULE 103 – SCHEDULING OF HEARINGS AND TRIALS

- 103.1 Calendar – The Court staff shall develop and maintain a calendar for all hearings and trials.
- 103.2 Priority, whenever the case load of the Court requires, that trials and other matters be subject to multiple settings on the same date, the order in which said matters proceed will be determined by the Judge based on Rules of Criminal Procedure Rule 4 in criminal cases, the age of the civil case and to the extent any priority issues are present.
- 103.3 When cases are scheduled as alternates for jury trials and they have not been continued on the motion of a party or by the Court at or prior to the Final Formal Pretrial, these alternate cases shall proceed to trial if the priority case does not. Parties and counsel shall be given a minimum of 48 hours notice prior to the start of trial on an alternately set case.
- 103.4 When counsel or a party requests a hearing or trial to be initially scheduled said request shall be made using Form 103.4 including the nature of the matter to be heard, an estimate of the amount of Court time needed, a date and time where the moving party is available that has been approved by the Court as available on the Court's calendar, and a list of the names and addresses of all other attorneys or parties in the case. When defense counsel request scheduling of a hearing in a criminal case requiring the presence of the State, the proposed hearing date and time shall be approved by the prosecuting attorney's office prior to requesting the Court set the hearing.

LR05-TR53.5-105 – GENERAL RULE 105

- 105.1 Motions for continuances shall be in writing and include the following information:
- a. The date and time opposing counsel was advised that a continuance would be requested.
 - b. Whether opposing counsel agrees with, or objects to the continuance and requests a hearing, or objects and waives hearing.
 - c. The date and time of the hearing or trial for which a continuance is being sought.
 - d. The approximate amount of time needed to elapse before the matter can be heard.
 - e. A good-faith estimate of the time needed for such hearing or trial when rescheduled.
 - f. Unless Court will hold a hearing on the Motion for Continuance, the motion shall contain proposed dates and times for rescheduling where all parties are available and the Court has available calendar space.
 - g. If the opposing party is not represented by counsel, that party shall be afforded notice and an opportunity to object and to request a hearing on the motion.
- 105.2 Hearings on Motions for Continuance will be held at the Court's convenience and counsel shall have access to their calendars directly or electronically. If Parties waive record, hearing on Motion for Continuance may be by telephonic conference initiated by the party/counsel moving for the continuance.
- 105.3 Unless good cause is shown, no motions for continuance will be considered unless filed at least five (5) days before a court trial or hearing, and at least ten (10) days before a Jury Trial.
- The following factors do not necessarily establish good cause for a continuance:
- a. Convenience to or a stipulation between the parties;
 - b. Failure to expeditiously prepare for trial;
 - c. Failure of client to adhere to financial agreement with an attorney;
 - d. Settlement negotiations not yet completed, including the need to communicate an offer to a client appearing through counsel;
 - e. Recent substitution of trial counsel;
 - f. Subsequent scheduling of cases in other courts.
- 105.4 All motions for continuance shall be accompanied by a separate proposed order.

- 105.5 When an attorney enters an appearance, it is the attorney's responsibility to review the file and the CCS and become aware of all previously scheduled hearing dates.
- 105.6 A signature by an attorney on the motion for a continuance is certification by that attorney that the client has been notified of the motion and agrees to the continuance and to the reason for which the continuance is sought.

LR05-CR00-108 LOCAL RULE 108 – PRETRIAL CONFERENCES

108.1 Criminal Pretrial Conference Excluding Final Formal Pretrial Conference

- a. The Defendant, defense counsel, and counsel for the State shall appear in person at any scheduled pretrial conference unless the parties pretrial the case prior to the scheduled pretrial conference.
- b. Pretrial conferences held by telephone between counsel shall be held prior to the date on which the pretrial conference is scheduled.
- c. A preliminary pretrial conference held on the record does not require a report of pretrial conference.
- d. The filing of the report of pretrial conference shall be filed by the end of the business day that the pretrial conference was scheduled.
- e. The Court at its own discretion may grant pro se Defendant's request for continuance of a pretrial conference if an emergency is established.

108.2 Final Formal Pretrial Conference for Criminal Jury Trials

- a. State of Indiana to appear by counsel.
- b. Defendant shall appear in person and if represented by counsel, the Defendant's counsel shall appear with the Defendant.
- c. Parties shall complete all discovery prior to the first scheduled final formal pretrial conference.
- d. All substantive pretrial motions shall be filed, scheduled, and heard by the Court prior to the final formal pretrial.
- e. At the final formal pretrial, parties are to submit any special preliminary instructions.
- f. Failure to file a motion for continuance of the jury trial prior to the final formal pretrial shall constitute certificate of readiness to proceed with the jury trial as scheduled.

LR05–AR09–109 GENERAL RULE – CONFIDENTIAL INFORMATION

- 109.1 Any person including attorneys and parties shall assist the courts in complying with Administrative Rule 9 concerning public access to court records and maintaining confidential information.
- 109.2 No person including attorneys shall seek access to court records excluded from public access as listed in Administrative Rule 9(G) unless authorized access pursuant to Administrative Rule 9, specific statutory authority or court order.
- 109.3 All submissions to the court including but not limited to pleadings, motions, affidavits, attachments, exhibits, proposed orders, memorandums, and correspondence shall be in compliance with the confidentiality requirements of Administrative Rule 9 and Trial Rule 5(G). Such submissions containing any confidential information shall be marked “Not for Public Access” and filed on light green paper shall be filed with the court for keeping in a separate filing system. Redacted copies of the confidential filing containing no visible confidential information shall be provided to the court or clerk for placement in the court’s file, the R.J.O., and for distribution. Certain confidential information redacted from submitted documents may be placed on a separate light green Confidential Information form or filed as a separate accompanying document pursuant to Trial Rule 5(G)(2).
- 109.4 Submissions containing confidential information not in compliance with this rule will not be accepted by the court. Items submitted not in compliance with this rule may be quarantined by the court for a period of 10 days. If after a CCS entry is made notifying the submitting party or counsel of the improper filing, the document or filing is not resubmitted in proper form within the 10 day period the court shall strike the non-compliant paper from the record and dispose thereof.